

Department of Justice

Policy for Pro Bono Legal Services by Department of Justice Lawyers

December 11, 2013

1) GUIDING PRINCIPLES

The administration of this policy for pro bono legal services by Department of Justice lawyers is built on the following principles:

- a) The Department of Justice recognizes that the provision of pro bono legal services by Justice lawyers as volunteers is an essential part of their professional responsibility and contributes beneficially to the public good, enhances their role as members of the legal profession and the community at large, and supports the principle of access to justice.
- b) The Department of Justice is committed to access to justice in the Canadian justice system and encourages and supports Justice lawyers to volunteer in departmentally approved pro bono legal programs and activities, for people who are disadvantaged or of limited means.
- c) While Justice lawyers are normally expected to work exclusively for the federal Crown, the Department of Justice recognizes that Justice lawyers must, at all times, respect the Values and Ethics Code of the Department of Justice and their other ethical and legal obligations as public sector lawyers, including while volunteering to provide pro bono legal services.

2) DEFINITIONS

- a) **"Pro bono legal services"** means the provision of legal services by Justice lawyers without compensation and while volunteering in their personal capacity and not as Department of Justice employees, and for only those projects and activities that are approved by the Department. Excluded pro bono services and activities include, but are not limited to:
 - i) criminal litigation
 - ii) habeas corpus matters
 - iii) any other matter involving the Minister of Justice and Attorney General of Canada, such as:

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- (1) litigation, commissions of inquiry, internal or external government investigations or any other matters in which the Attorney General of Canada is, or represents, a party, witness, litigant or in any matter in which the federal Crown has an interest;
- (2) any matter that would require representation before a federal agency (including such things as the Immigration and Refugee Board and the Canadian Human Rights Tribunal);
- (3) a challenge to the constitutionality of a federal statute or regulation.

b) **"Approved pro bono programs and activities"** means programs and activities approved by the Department of Justice on the basis that the services are provided to persons or organizations who work for persons who are disadvantaged or of limited means and

- i) the services are not in conflict with the work carried out by the Department of Justice; and,
- ii) the activities are of a non-representational nature and require minimal or no follow-up.

c) **"Justice lawyers"** means lawyers in the employment of the Department of Justice in the LA and LC classification who carry out their duties and responsibilities on behalf of the Minister of Justice and Attorney General of Canada under the *Department of Justice Act*, and does not include lawyers who are on assignment, exchange or secondment from the private sector, the provincial or territorial government or from other parts of the federal public sector, unless prior to the employee's transfer, all the parties agree in writing.

d) **"LA Collective Agreement"** means the current collective agreement between the Treasury Board and the Association of Justice Counsel.

3) APPLICATION

- a) This policy does not apply to employment or volunteer activities that are approved and permitted under Chapter 2 of the Values and Ethics Code of the Department of Justice.
- b) While volunteering normally takes place outside of normal working hours, managers may, on an exceptional basis, permit a Justice lawyer to volunteer during working hours, where the lawyer can establish that the proposed activity will not impair the performance of their duties, that the lawyer will take approved leave, and the manager has determined that operational requirements can be met.

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4) PARTICIPATION IN PRO BONO LEGAL SERVICES

A Justice lawyer must take the following steps prior to participating in pro bono legal services:

a) Manager's Approval

i) Obtain the manager's written approval at least 10 working days prior to the start of the pro bono service, using the departmentally approved pro bono volunteer request form confirming the following:

- (1) whether the pro bono legal services will be conducted inside or outside of normal working hours and, if within normal working hours, a justification and a request for leave as described in section 3 b);
- (2) the lawyer has conducted a conflicts of interest search in accordance with section 4 b), and include the results of that search;
- (3) the pro bono legal services fall within the relevant law society's or professional indemnity company's policy for pro bono legal services;
- (4) the Department of Justice has approved the pro bono program or activity; and,
- (5) the lawyer will inform the manager immediately of any conflict of interest or professional responsibility issues that arise in respect of the pro bono legal services or activities, including a complaint made to a law society or other entity.

b) Conflicts of Interest Searches

Justice lawyers must carry out a conflicts of interest search by using the Department of Justice i-Case system, consulting managers and others where appropriate and, with the manager's approval, by obtaining any additional information necessary to confirm that a thorough review of conflicts of interest has been carried out.

c) Retainer Agreement

Complete a retainer agreement with the pro bono service program or activity confirming that, when volunteering for pro bono legal services, the lawyer is acting in the lawyer's own personal capacity and not on behalf of the Department of Justice.

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d) Change of Employment

Notify the law society professional indemnity company and the manager of the pro bono program or activity of any change in the lawyer's employment status within 30 days of the change.

5) PROFESSIONAL LIABILITY INSURANCE

The Treasury Board does not provide professional liability insurance coverage to Justice lawyers participating in pro bono legal services. Lawyers must ensure that they have proper professional liability insurance coverage and that they meet the law society's requirements.

6) VALUES AND ETHICS

- a) When volunteering for pro bono legal services, Justice lawyers are expected to comply with:
 - i) the law;
 - ii) the relevant policies, standards and public service codes of the employer and the Department of Justice, as set out in Sources; and,
 - iii) the relevant law society code of professional conduct in their jurisdiction.

7) ROLES AND RESPONSIBILITIES

Justice Lawyers

Justice lawyers are expected to abide by the Values and Ethics Code of the Department of Justice and demonstrate the values of the Department in their actions and behaviour while providing pro bono legal services.

Managers

In reviewing and approving requests from Justice lawyers to volunteer in pro bono legal programs and activities, managers are expected to:

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- a) provide advice and guidance, as needed, to lawyers under their supervision on issues related to values and ethics, including occasions where lawyers may find themselves faced with a situation that could give rise to a conflict of interest;
- b) notify the Department's office responsible for values and ethics of any conflict of interest breaches of this policy; and,
- c) notify the Office of Corporate Counsel regarding professional responsibility matters.

Office Responsible for Values and Ethics

The office responsible for values and ethics supports the Deputy Minister, managers and all public servants of the Department. In relation to the delivery of pro bono legal services by Justice lawyers, the office is responsible for:

- a) providing advice to Justice lawyers and their managers on conflicts of interest issues related to their role as public servants;
- b) processing and providing conflicts of interest recommendations on submissions under this policy;
- c) providing conflicts of interest information, tools and training to ensure that Justice lawyers understand their duties and obligations and how they relate to the delivery of pro bono legal services by Justice lawyers; and,
- d) approving pro bono programs and activities on behalf of the Department of Justice.

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Sources

The following list of resources and reference materials elaborate on the expected behaviours described in the Policy for Pro Bono Legal Services by Department of Justice Lawyers. Lawyers are encouraged to access additional research material and seek advice of their managers when questions arise.

Acts

Access to Information

- <http://laws-lois.justice.gc.ca/eng/acts/A-1/>

Conflict of Interest Act

- <http://laws-lois.justice.gc.ca/eng/acts/C-36.65/index.html>

Constitution Act

- <http://laws-lois.justice.gc.ca/eng/Const/index.html>

Department of Justice Act

- <http://laws-lois.justice.gc.ca/eng/acts/J-2/>

Privacy Act

- <http://laws-lois.justice.gc.ca/eng/acts/P-21/>

Policies, Directives and other Central Agency Documents

Agreement between the Treasury Board and the Association of Justice Counsel

- http://www.tbs-sct.gc.ca/hr-rh/lr_ca_rp-rt_cc_tr/index-eng.asp

Duty of Loyalty

- <http://www.tbs-sct.gc.ca/rp/icg01-eng.asp>

Directive on Information Management Roles and Responsibilities

- <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12754§ion=text#cha2>

Policy Framework on Information and Technology

- <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12452>

Sources: Policy for Pro Bono Services by Department of Justice Lawyers

Policy on Conflict of Interest and Post-Employment

- <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25178>

Policy on the Use of Electronic Networks

- <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12419>

Values and Ethics Code for the Public Sector

- <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049>

Department of Justice Policies

Information Management Policy

- http://jusnet.justice.gc.ca/imb-dgi_e/policies_guidelines/edms_6663_v3_im_policy_doj.htm

Information Technology Security Policy

- http://jusnet.justice.gc.ca/imb-dgi_e/policies_guidelines/it_security_policy.htm

Values and Ethics Code of the Department of Justice

- http://dojnet.justice.gc.ca/centre_e/ethics/policies.htm

Other

British Columbia

Legal Profession Act

- <http://www.lawsociety.bc.ca/page.cfm?cid=694&t=Legal-Profession-Act-Contents>

Law Society of British Columbia

- <http://www.lawsociety.bc.ca/>

Law Society Rules

- <http://www.lawsociety.bc.ca/page.cfm?cid=334&t=Law-Society-Rules-Contents>

Code of Professional Conduct for British Columbia

- <http://www.lawsociety.bc.ca/page.cfm?cid=2578&t=BC-Code-Table-of-Contents>

Lawyers Insurance Fund

- <http://www.lawsociety.bc.ca/page.cfm?cid=20&t=Insurance>

Sources: Policy for Pro Bono Services by Department of Justice Lawyers

Alberta

Legal Profession Act

- <http://www.lawsociety.ab.ca/lawyers/regulations/lpa.aspx>

Law Society of Alberta

- <http://www.lawsociety.ab.ca/>

Rules of the Law Society of Alberta

- <http://www.lawsociety.ab.ca/lawyers/regulations/rules.aspx>

Law Society of Alberta Code of Conduct

- <http://www.lawsociety.ab.ca/lawyers/regulations/code.aspx>

Alberta Lawyers Insurance Association

- <http://www.lawsociety.ab.ca/membership/alia.aspx>

Saskatchewan

Legal Profession Act

- <http://www.publications.gov.sk.ca/details.cfm?p=593>

Law Society of Saskatchewan

- <http://www.lawsociety.sk.ca/>

Rules of the Law Society of Saskatchewan

- <http://www.lawsociety.sk.ca/lawyer-regulation/law-society-rules/>

Code of Professional Conduct

- <http://www.lawsociety.sk.ca/lawyer-regulation/code-of-professional-conduct/>

Saskatchewan Lawyers' Insurance Association Inc.

- <http://www.lawsociety.sk.ca/for-lawyers-and-students/>

Ontario

Law Society Act

- http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90i08_e.htm

Law Society of Upper Canada

- <http://www.lsuc.on.ca/>

Sources: Policy for Pro Bono Services by Department of Justice Lawyers

Rules of Practice and Procedures

- <http://www.lsuc.on.ca/with.aspx?id=1073>

Rules of Professional Conduct

- <http://www.lsuc.on.ca/with.aspx?id=671>

Law Pro Insurance

- <http://www.lawpro.ca/>

Canada

Canadian Bar Association

- <http://www.cba.org/cba/>

Canadian Bar Association Code of Professional Conduct

- <http://www.cba.org/CBA/activities/pdf/codeofconduct.pdf>

Canadian Legal Insurance Corporation

- <http://www.clia.ca/>

Questions and Answers (Q & A's)

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Q1. Can I volunteer for pro bono legal work anywhere in Canada?

Department of Justice lawyers may only volunteer in a departmentally approved pro bono activity.

Q2. What activities have been approved?

There are nine departmentally approved pro bono activities. The pro bono clinics are located in Vancouver, Edmonton, Ottawa, Toronto, Montreal, Saskatoon and Winnipeg. The department will consider adding pro bono programs and activities in the future in jurisdictions where there is no-cost pro bono insurance coverage for federal Crown lawyers and where there is a minimal risk of conflicts of interest with the work of the department and its lawyers.

Q3. Can I volunteer for pro bono legal work abroad?

The policy for pro bono legal services does not include pro bono legal services abroad. If you are contemplating volunteering legal services abroad, contact the Workplace Branch at ve@justice.gc.ca.

Q4. Do I need to take time off work to volunteer?

Volunteering is done on personal time. Justice lawyers can take a volunteer day or vacation leave if the pro bono legal service takes place during the workday. Additionally, managers are asked to take a flexible approach in approving leave for pro bono. As with all leave requests, leave is subject to operational requirements and supervisor approval.

Q5. What departmental approvals do I need to obtain before I can volunteer?

Lawyers must complete the form at the link below entitled "Request for Approval for Counsel Participation in Pro Bono Services":

<http://bcroteams/beprobono/Shared%20Documents/Request%20for%20Approval%20for%20Consent%20Participation%20in%20Pro%20Bono%20Services.docx>

Once the form is signed by your manager, volunteers must send a copy to their regional pro bono coordinator. You must also register with the pro bono organization in your region in order to be

assigned shifts and to be covered for insurance. Volunteers are responsible for obtaining the required training/orientation before volunteering. Contact your regional coordinator to ask about training requirements and upcoming training sessions. As with all training requests, you must take into account your own operational requirements and obtain your supervisor's approval for leave related to this personal outside activity.

Q6. If I do not have the necessary knowledge required by the clinic's subject matter, is training provided?

Training/orientation is provided by the approved pro bono clinics located in Vancouver, Edmonton, Ottawa, Toronto, Montreal, Saskatoon and Winnipeg. To learn more about training activities, please contact the regional Justice pro bono coordinator.

Q7. Will volunteering be taken into account for Performance Management Agreement (PMA) purposes?

Volunteer activities are not a job requirement. Accordingly, they are not taken into account for PMA purposes.

Q8. Can managers volunteer?

All LP and LC occupations may volunteer.

Q9. Am I insured when I volunteer for pro bono services?

Federal Crown lawyers do not have insurance. However, for the sole purpose of working in approved Law Society pro bono activities, insurance coverage is available, at no cost, in British Columbia, Alberta, Saskatchewan, Manitoba and Ontario. Only individuals participating in the Montreal pro bono pilot project (from January to March 2016) will be insured in Quebec. You must familiarize yourself with the terms of the insurance provider.

Q10. Does the pro bono training count towards mandatory Continuing Professional Development (CPD) hours?

You should contact your regional Justice pro bono coordinator or the Justice national pro bono coordinator to confirm the status of the training. In British Columbia, for example, the training is accredited for CPD hours.

Q11. If a conflict arises while I am volunteering, how do I handle it? How broad or narrow an approach should I take in defining “Government of Canada” for conflict purposes?

Take a broad approach in defining Government of Canada. If you find yourself in a real, apparent or potential conflict of interest situation while volunteering at a pro bono clinic, ask the clinic coordinator to refer the pro bono client to a non-Justice lawyer and notify the regional Justice coordinator.

Q12. Can counsel working outside of Vancouver, Edmonton, Saskatoon, Winnipeg, Toronto, Ottawa and Montreal participate?

Justice lawyers can only participate in pro bono activities that have received departmental approval. If you are a lawyer practicing in a jurisdiction where there is an approved activity but it is not in your city, you can choose to travel, at your own cost, to volunteer in the pro bono legal service. It is necessary to register with the pro bono organization for insurance purposes.

Q13. Which jurisdictions offer no-cost pro bono insurance to Justice lawyers?

British Columbia, Alberta, Saskatchewan, Manitoba and Ontario offer no-cost pro bono insurance for government lawyers. In Montreal, only volunteers in the pro bono pilot project are insured through funding by Pro Bono Quebec. It is each volunteer's responsibility to familiarize themselves with the terms of the insurance in their jurisdiction.

Q14. Can non-lawyers take part in pro bono?

In some jurisdictions and pro bono clinics, articling students may be eligible to volunteer if pro bono insurance coverage is available by way of a supervising Justice lawyer. The Vancouver clinic, for example, operates under this arrangement. In all cases, it is the responsibility of the articling student and the supervising lawyer to familiarize themselves with the insurance terms. Because summer students have only temporary articles, they cannot volunteer.

Q15. What is my obligation to the Law Society in the jurisdiction where there is a departmentally approved activity?

You are responsible for familiarizing yourself with your Law Society's professional obligations. For example, as a volunteer pro bono lawyer, you are personally responsible for the legal advice you provide to your pro bono client. In addition, you may be responsible for maintaining your own pro bono client files.

Q16. If I need to talk to someone about a conflict of interest situation, what do I do?

Contact your regional Justice pro bono coordinator and the national pro bono coordinator. Depending on the situation, they may refer you to the department's Values and Ethics office.

Q17. Who is responsible for maintaining pro bono client files?

Each pro bono organization has its own protocols for file retention. Check with your regional coordinator to determine what your responsibilities are for file retention. In Vancouver, for example, volunteers are personally responsible for maintaining their files.

Q18. Am I permitted to use the department's electronic networks and e-mail when I provide pro bono services to clients?

As volunteering is undertaken in a personal capacity and not as a Justice lawyer, pro bono volunteers must not use government property or resources, including the network, computer, telephone and e-mail addresses, for the purpose of delivering pro bono services to clients. Volunteers must use their personal e-mail address when corresponding with clients or communicate with the client through the pro bono clinic.

Q19. If I have a question about a departmentally approved pro bono activity or a potential pro bono activity I would like to bring to the attention of the department, who do I contact?

Maria Molloy is the department's national pro bono coordinator. You may contact her at: 604-666-7488 or at maria.molloy@justice.gc.ca.

SERVING CANADIANS



VALUES and ETHICS CODE of the DEPARTMENT of JUSTICE



Department of Justice
Canada

Ministère de la Justice
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DEPARTMENT OF JUSTICE

VALUES AND ETHICS CODE

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Values and Ethics Code

THE DEPARTMENT OF JUSTICE

A Unique Role

The Department of Justice (the Department) works to ensure that Canada's justice system is as fair, accessible and efficient as possible. It helps the federal government to develop policy, as well as to draft and reform laws as needed. It acts as legal advisor to the Government of Canada by providing legal advice and support, prosecuting civil cases of federal law on behalf of the government, and representing the government in court.

The Department's responsibilities reflect the dual role of the Minister of Justice, who is also, by law, the Attorney General of Canada. In general terms, the Minister is concerned with the administration of justice, including policy in such areas as criminal law, family law, human rights law and Aboriginal justice; as Attorney General, the Minister is the chief law officer of the Crown, and is responsible for the conduct of all litigation for the federal government.

A Diverse Community

The Department's support for this dual role of Minister and Attorney General of Canada is reflected in the makeup of our personnel, a team of professionals who work closely with federal government departments and agencies, in regional offices and Headquarters. This team includes a large number of counsel whose roles vary according to their responsibilities: to draft bills to be tabled in Parliament, whether these originate with the Department of Justice or with another department; to help ministries of state in developing, reforming and interpreting laws and regulations; to support departments and other federal bodies in developing policies and programs of the Government of Canada; to develop options based on the law; to help mitigate and manage legal risks posed by policies and programs; and to defend the decisions of public authorities before courts, tribunals and international bodies.

Counsel in the Department work in tandem with a large number of employees with varied skills in other professional groups, and their contributions are vital to the efficient implementation of the mandate of the Department.

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CHAPTER I - VALUES

INTRODUCTION

The Government of Canada is committed to ensuring that the federal public sector¹ remains professional, non-partisan and ethical, and worthy of the trust and respect of Canadians. As public servants, we contribute to good governance, to democracy and to the well-being of Canadian society. We are committed to respecting the law and to upholding the highest standards of integrity and fairness.

In accordance with section 6 of the *Public Servants Disclosure Protection Act* (PSDPA), the *Values and Ethics Code of the Department of Justice* (the Code) sets out the values and ethics that guide public servants at the Department in all their professional activities. It also provides a set of guidelines and principles to support ethical behaviour and decision making for all public servants. Established in consultation with the Department's employees and bargaining agents, it is our common guide.

The public servants at the Department are proud to work together, drawing on the richness of its diverse staff. As a group, we are conscious of the fact that Canadians expect transparency and respect for the principle of accountability from public authorities at all levels and that this has an impact on their work.

This firm commitment to the values and ethics enshrined in the Code will allow us to carry out the mandate of the Department and build a healthy and productive work environment that fosters innovation, while at the same time meeting the high expectations of Canadians. This is our collective commitment, and it is our individual responsibility.

OBJECTIVES

The Code outlines the values and expected behaviours that guide public servants in the Department in all activities related to their professional duties. By committing to these values and adhering to the expected behaviours, public servants strengthen the ethical culture of the public sector and contribute to public confidence in the integrity of all public institutions.

The Code provides guidance for common situations involving our work at the Department. In all circumstances, each employee is expected to adhere to the highest ethical standards that are to be expected from a public servant.

¹ The *Public Servants Disclosure Protection Act* (PSDPA) defines the "public sector" as: (a) the departments named in Schedule I to the *Financial Administration Act* and the other portions of the federal public administration named in Schedules I.1 to V to that Act; and (b) the Crown corporations and other public bodies set out in Schedule I of the PSDPA. However, "the public sector" does not include the Canadian Forces, the Canadian Security Intelligence Service or the Communications Security Establishment, which are subject to separate requirements under the Act.

Values and Ethics Code

APPLICATION

The Code is inspired by the *Values and Ethics Code for the Public Sector* and by the Treasury Board's *Policy on Conflict of Interest and Post-Employment*. These two documents have been adapted to reflect the distinct culture and procedures of the Department and to provide its public servants with an integrated reference document that will guide them in matters of values and ethics. By respecting the Code, employees will be respecting the two public sector documents that it was based upon.

The Code applies to all public servants at the Department. Acceptance of the values and adherence to the expected behaviours contained within the Code is a condition of employment for every public servant, regardless of their level or position. A breach of these values or behaviours may result in disciplinary measures being taken, up to and including termination of employment.

In addition to the requirements set out in the Code, public servants must comply with any applicable specific codes and standards of their profession.

The Code came into effect on February 26, 2013.

THE ROLE OF PUBLIC SERVANTS

Public servants² have a fundamental role to play in serving Canadians, their communities and the public interest under the direction of the elected government and in accordance with the law. As professionals whose work is essential to Canada's well-being and the enduring strength of the Canadian democracy, public servants uphold the public trust.

The Constitution of Canada and the principles of responsible government provide the foundation for the role, responsibilities and values of the federal public sector³. Constitutional conventions of ministerial responsibility prescribe the appropriate relationships among ministers, parliamentarians, public servants and the public. A professional and non-partisan federal public sector is integral to our democracy.

² The *Public Servants Disclosure Protection Act* (PSDPA) defines "public servant" as every person employed in the public sector (this includes the core public administration, Crown corporations and separate agencies). Every member of the Royal Canadian Mounted Police and every chief executive (including deputy ministers and chief executive officers) are also included in the definition of public servant for the purpose of the PSDPA and the *Values and Ethics Code for the Public Sector*.

³ The *Values and Ethics Code for the Public Sector* is intended to clarify the role and expectations of public servants within the framework of Canadian parliamentary democracy as laid out in the *Constitution Act* and the basic principle of responsible government, which holds that the powers of the Crown are exercised by ministers who are in turn accountable to Parliament.

Values and Ethics Code

THE ROLE OF MINISTERS

Ministers are also responsible for preserving public trust and confidence in the integrity of public sector organizations and for upholding the tradition and practice of a professional non-partisan federal public sector. Furthermore, ministers play a critical role in supporting public servants' responsibility to provide professional and frank advice.⁴

STATEMENT OF VALUES AND EXPECTED BEHAVIOURS

The following values guide public servants at the Department in everything they do. They cannot be considered in isolation from each other as they will often overlap. The Code is an important source of guidance for public servants. Its values will guide us in our decisions, actions, policies, processes and systems. Similarly, public servants can expect to be treated in accordance with these values:

1. Respect for Democracy
2. Respect for People
3. Integrity
4. Stewardship
5. Excellence

The Code also describes clearly, though not exhaustively, specific behaviours that allow public servants to respect these five values.

1. RESPECT FOR DEMOCRACY

The system of Canadian parliamentary democracy and its institutions are fundamental to serving the public interest. Public servants recognize that elected officials are accountable to Parliament, and ultimately to the Canadian people, and that a non-partisan public sector is essential to our democratic system.

Expected Behaviours

Public servants shall uphold the Canadian parliamentary democracy and its institutions by:

- 1.1 Respecting the rule of law and carrying out their duties in accordance with legislation, policies and directives in a non-partisan and impartial manner.
- 1.2 Loyally carrying out the lawful decisions of their leaders and supporting ministers in their accountability to Parliament and Canadians.
- 1.3 Providing decision makers with all the information, analysis and advice they need, always striving to be open, candid and impartial.

⁴ This text reflects the duties and responsibilities set out in *Accountable Government: A Guide for Ministers and Ministers of State*, the *Conflict of Interest Act*, the *Lobbying Act* and the *Public Servants Disclosure Protection Act* (PSDPA).

Values and Ethics Code

At the Department, we support democracy by helping to ensure that Canada's justice system is accessible, fair and efficient as possible, and that the public sector institutions we advise are acting in compliance with the law and the Constitution.

2. RESPECT FOR PEOPLE

Treating all people with respect, dignity and fairness is fundamental to our relationship with the Canadian public and contributes to a safe and healthy work environment that promotes engagement, openness and transparency. The diversity of our people and the ideas they generate are the source of our innovation.

Expected Behaviours

Public servants shall respect human dignity and the value of every person by:

- 2.1 Treating every person with respect and fairness.
- 2.2 Valuing diversity and the benefit of combining the unique qualities and strengths inherent in a diverse workforce.
- 2.3 Helping to create and maintain safe and healthy workplaces that are free from harassment and discrimination.
- 2.4 Working together in a spirit of openness, honesty and transparency that encourages engagement, collaboration and respectful communication.
- 2.5 Contributing to create a culture within the workplace in which all employees, in all positions, work together to prevent conflicts or resolve them as early as possible in a constructive and creative manner.

At the Department, we recognize that our greatest asset is employees who are determined to work in an atmosphere of confidence, cooperation and mutual respect. We also recognize that each person we deal with deserves to be treated in that same spirit.

3. INTEGRITY

Integrity is the cornerstone of good governance and democracy. By upholding the highest ethical standards, public servants conserve and enhance public confidence in the honesty, fairness and impartiality of the federal public sector.

Expected Behaviours

Public servants shall serve the public interest by:

- 3.1 Acting at all times with integrity and in a manner that will bear the closest public scrutiny, an obligation that may not be fully satisfied by simply acting within the law.

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- 3.2 Never using their official roles to inappropriately obtain an advantage for themselves or to advantage or disadvantage others.
- 3.3 Taking all possible steps to prevent and resolve any real, apparent or potential conflicts of interest between their official responsibilities and their private affairs in favour of the public interest.
- 3.4 Acting in such a way as to maintain their employer's trust.
- 3.5 Maintaining the confidentiality of information obtained through their position and respecting the rules governing information management.
- 3.6 Conducting themselves in a manner that does not harm the reputation of the Department, the Government of Canada, or the departments and agencies they support.
- 3.7 Exercising caution when using social media or other collaborative tools facilitated by information technology so that their professionalism and their ability to perform their duties in a non-partisan way are not called into question.
- 3.8 Limiting themselves to authorized and lawful uses of the Department's systems and electronic networks.

At the Department, we are committed to respecting the law and maintaining the strictest rules of integrity and fairness.

4. STEWARDSHIP

Federal public servants are entrusted to use and care for public resources responsibly, for both the short term and long term.

Expected Behaviours

Public servants shall use resources responsibly by:

- 4.1 Effectively and efficiently using the public money, property and resources managed by them.
- 4.2 Considering the present and long-term effects that their actions have on people and the environment.
- 4.3 Acquiring, preserving and sharing knowledge and information as appropriate.

At the Department, we recognize that the responsible use of resources is a duty of every public servant, and we are committed to ensuring that this is reflected in our daily activities.

5. EXCELLENCE

Excellence in the design and delivery of public sector policy, programs and services is beneficial to every aspect of Canadian public life. Engagement, collaboration, effective teamwork and professional development are all essential to a high-performing organization.

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Expected Behaviours

Public servants shall demonstrate professional excellence by:

- 5.1 Providing fair, timely, efficient and effective services that respect Canada's official languages.
- 5.2 Continually improving the quality of policies, programs and services they provide.
- 5.3 Fostering a work environment that promotes teamwork, learning and innovation.
- 5.4 Consistently applying the policies and directives of the Department and central agencies.

At the Department, we strive to create a workplace where public servants at all levels work toward common goals, and are committed in particular to providing high-quality legal services.

AVENUES FOR RESOLUTION

The expected behaviours identified above are not intended to respond to every possible ethical issue that might arise in the course of a public servant's daily work. When ethical issues arise, public servants are encouraged to discuss and resolve these matters with their manager. They can also seek advice and support from other appropriate sources within the Department, including the Human Resources Division and the office responsible for values and ethics, or their union representative.

Public servants at all levels are expected to resolve issues in a fair and respectful manner and consider informal processes such as dialogue or mediation.

As provided by sections 12 and 13 of the *Public Servants Disclosure Protection Act* (PSDPA), if public servants have information that could indicate a serious breach of the Code, they can bring the matter, in confidence and without fear of reprisal, to the attention of their immediate supervisor, the senior officer for disclosure or the Public Sector Integrity Commissioner.

The senior officer for disclosure is responsible for supporting the Deputy Minister in meeting the requirements of the PSDPA. He or she helps promote a positive environment for disclosing wrongdoing, and deals with disclosures of wrongdoing made by employees of the organization. Further information on the duties and powers of the senior officer for disclosure can be found under Annex A.

Members of the public who have reason to believe that a public servant has not acted in accordance with the Code can bring the matter to the senior officer for disclosure or to the Public Sector Integrity Commissioner to disclose a serious breach of this Code.

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REFERENCE DOCUMENTS

The following is a list of laws, policies and guides that further elaborate on the expected behaviours described in this Code. This list includes the most pertinent resources and reference materials available, but does not necessarily include all available documents. Employees are encouraged to access other research material, and to seek the advice of their manager when questions or a need for clarification arise.

Acts

Access to Information Act
Canadian Charter of Rights and Freedoms
Canadian Human Rights Act
Canada Labour Code
Conflict of Interest Act
Constitution Act
Copyright Act
Criminal Code
Department of Justice Act
Employment Equity Act
Financial Administration Act
Lobbying Act
Official Languages Act
Public Servants Disclosure Protection Act
Public Service Employment Act
Public Service Labour Relations Act
Privacy Act

Policies, Publications of Central Agencies

Communications Policy of the Government of Canada
Collective Agreements
Contracting Policy
Duty of Loyalty
Employment Equity Policy
Policy on Government Security Policy
Guidelines for Discipline
Guideline for External Use of Web 2.0
Policy on Information Management
Occupational Health and Safety Directive
Official Languages Policy
Policy on Conflict of Interest and Post-Employment
Policy on the Duty to Accommodate Persons with Disabilities in the Federal Public Service
Policy on Interchange Canada
Policy on the Use of Electronic Networks
Political Activities

Values and Ethics Code

Policy on Prevention and Resolution of Harassment in the Workplace Values and Ethics Code for the Public Sector

Department of Justice Policies and Guidelines

Departmental Health and Safety

Departmental Employment Equity Policy

Informal Conflict Management System Policy

Information Management Policy

Information Technology Security Policy

Grievance Procedure

Guidelines on Solicitation

Official Languages Policy and Directives

Policy on Accommodating Differences in the Workplace

N.B. Please note that public servants are also required to observe any specific conduct requirements contained in the statutes governing the Department and their profession, where applicable.

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CHAPTER II – CONFLICT OF INTEREST AND POST-EMPLOYMENT

PURPOSE

This chapter of the Code is based on the *Policy on Conflict of Interest and Post-Employment* of the Treasury Board, the objectives of which are to:

- Ensure that, in situations of real, apparent or potential conflict of interest and situations where there is a conflict of duties, decisions are made in a manner which upholds the public interest;
- Facilitate ethical decision-making within organizations and by public servants to resolve conflicts between private and public interests; and
- Establish measures to help public servants prevent, manage and resolve conflict of interest and post-employment situations that could impair either the integrity of the public service or the public's perception of its integrity.

This chapter must be read in tandem with Chapter I of the Code.

DEFINITIONS

Public servant: a person employed in organizations defined in section 2 of the *Policy on Conflict of Interest and Post-Employment*. This includes indeterminate and term employees, employees on leave without pay, students participating in Student Employment Programs, casual, seasonal and part-time workers.

Although they are not public servants, individuals on incoming Interchange Canada assignments are expected to comply with, and volunteers are expected to respect, the requirements of the *Policy on Conflict of Interest and Post-Employment*. Order-in-Council appointees, such as Deputy Ministers, are subject to the *Conflict of Interest Act*, and are not subject to the *Policy on Conflict of Interest and Post-Employment*.

Conflict of interest: a situation in which the public servant has private interests that could improperly influence the performance of his or her official duties and responsibilities or in which the public servant uses his or her office for personal gain. A *real* conflict of interest exists at the present time, an *apparent* conflict of interest could be perceived by a reasonable observer to exist, whether or not it is the case, and a *potential* conflict of interest could reasonably be foreseen to exist in the future.

Conflict of duties: a conflict that arises, not because of a public servant's private interests, but as a result of one or more concurrent or competing official responsibilities. For example, these roles could include his or her primary public service employment and his or her responsibilities in an outside role that forms part of his or her official duties, such as an appointment to a board of directors, or other outside function.

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REQUIREMENTS FOR PREVENTING AND DEALING WITH CONFLICT OF INTEREST AND POST-EMPLOYMENT SITUATIONS

The following are the conflict of interest and post-employment requirements that are a condition of employment for public servants at the Department. These requirements are grounded in and serve to uphold the values contained in the *Values and Ethics Code for the Public Sector*, and repeated in this Code. By upholding these ethical standards, public servants conserve and enhance public confidence in the honesty, fairness and integrity of the public service. These requirements also form part of Canada's commitments as a signatory to international agreements on values and ethics.

PREVENTION OF CONFLICT OF INTEREST

A public servant maintains public confidence in the objectivity of the public service by preventing and avoiding situations that could give the appearance of a conflict of interest, result in a potential for a conflict of interest or result in an actual conflict of interest. Conflict of interest does not relate exclusively to matters concerning financial transactions and the transfer of economic benefit. While financial activity is important, conflicts of interest in any area of activity can have a negative impact on the perceived objectivity of the public service. With the permanent and pervasive nature of information technology, public servants should be particularly sensitive to real, apparent or potential conflicts of interest that may arise from messages and information transmitted via the Internet and other media.

It is impossible to foresee every situation that could give rise to a real, apparent or potential conflict of interest. When in doubt, public servants should refer to the requirements found in this Code to guide appropriate action. Public servants can also seek guidance from their manager and, if necessary, from another senior manager in their reporting structure. If after this step there is still doubt as to whether the activity or situation raises a conflict of interest, the public servant must consult the office responsible for values and ethics.

In addition to the requirements outlined in this chapter, public servants are also required to observe any specific conduct requirements contained in the statutes governing the Department and their profession, where applicable.

1. GENERAL RESPONSIBILITIES AND DUTIES OF A PUBLIC SERVANT

Public servants have general responsibilities and duties, which include the following:

- a) Taking all possible steps to recognize, prevent, report, and resolve any real, apparent or potential conflicts of interest between their official responsibilities and any of their private affairs;
- b) Unless otherwise permitted in this chapter, refraining from having private interests, which would be unduly affected by government actions in which they participate, or of which they have knowledge or information;

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- c) Not knowingly taking advantage of, or benefiting from, information that is obtained in the course of their duties that is not available to the public;
- d) Refraining from the direct or indirect use of, or allowing the direct or indirect use of government property of any kind, including property leased to the government, for anything other than officially approved activities;
- e) Not assisting private entities or persons in their dealings with the government where this would result in preferential treatment of the entities or persons;
- f) Not interfering in the dealings of private entities or persons with the government in order to inappropriately influence the outcome;
- g) Maintaining the impartiality of the public service and not engaging in any outside or political activities that impair or could be seen to impair their ability to perform their duties in an objective or impartial manner; and
- h) Ensuring that any real, apparent or potential conflict that arises between their private activities and their official responsibilities as a public servant is resolved in the public interest.

2. REQUIREMENTS FOR PREVENTING AND DEALING WITH SITUATIONS OF CONFLICT OF INTEREST DURING EMPLOYMENT

Public servants are required to report in writing to the Deputy Minister, via the office responsible for values and ethics, all outside activities, assets and interests that might give rise to a real, apparent or potential conflict of interest in relation to their official duties. Such a report is to be made within 60 days of their initial appointment or any subsequent appointment, transfer or deployment.

On a regular basis thereafter, and every time a change occurs in their personal affairs or official duties, every public servant is required to review his or her obligations under the Code. If a real, apparent or potential conflict of interest exists, he or she is to file a report in a timely manner.

When negotiating financial arrangements with outside parties, public servants are to comply with the requirements listed in this chapter as well as other related directives or policies issued by the Treasury Board. When in doubt, public servants are to immediately report the situation to their manager in order to seek advice or direction on how to proceed.

The Department encourages employees to participate in outreach activities and personal and professional development promoted by their respective professional associations or relevant to their areas of private interest. No matter what form these outside activities might take, however, the public servant must ensure beforehand that they are not likely to result in a real, apparent or potential conflict of interest.

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In general, conflicts of interest may arise in relation to the following:

- owning assets
- receiving gifts, hospitality and other benefits
- participating in outside activities, such as:
 - speaking at a conference;
 - offering legal services outside the federal public service;
 - volunteer work;
 - other paid employment;
 - participation on a board;
 - political activities;
 - teaching;
 - publishing documents; and,
 - other educational activities;
- organizing fundraising activities or solicitation
- owning or operating a business

The above list is not exhaustive, but these are some of the more common examples of situations that could give rise to a real, apparent or potential conflict of interest. In such situations, if there is any doubt, it is recommended that the public servant discuss the matter with their manager and, if necessary, with another senior manager in their reporting structure. If doubt persists as to whether the activity or situation raises a conflict of interest, the public servant must consult the office responsible for values and ethics to obtain advice or a formal decision.

Furthermore, if an outside individual or entity with whom the Department has past, present or potential official dealings offers a commission, reward, advantage or benefit of any kind to an employee or the Department, public servants are to consider whether any real, apparent or potential conflict of interest exists, and obtain the consent in writing of the Deputy Minister or his or her delegate prior to accepting any such offers. This provision is designed to ensure that this chapter, which is based on the Policy on Conflict of Interest and Post-Employment, is consistent with paragraph 121(1) (c) of the Criminal Code.

2.1 Assets

Public servants are required to evaluate their assets, taking into consideration the nature of their official duties and the characteristics of their assets. If there is any real, apparent or potential conflict of interest between the carrying out of their official duties and their assets, they are to report this matter to the Deputy Minister, via the office responsible for values and ethics, in a timely manner.

Where the Deputy Minister or his or her delegate determines that any of these assets result in a real, apparent or potential conflict of interest in relation to their official duties, public servants may be required to divest those assets, or to take other measures to resolve the conflict. Public

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servants may not sell or transfer assets to family members or anyone else for the purpose of circumventing the compliance requirements.

The types of assets that should be reported and the procedures for reporting and managing such assets are set out in Annex B, Assets, Liabilities and Trusts.

2.2 Outside employment or activities

Public servants may engage in employment outside the public service and take part in outside activities unless the employment or activities are likely to give rise to a real, apparent or potential conflict of interest or would undermine the impartiality of the public service or the objectivity of the public servant.

Public servants are required to provide a report to the Deputy Minister, via the office responsible for values and ethics, when their outside employment or activities might subject them to demands incompatible with their official duties, or cast doubt on their ability to perform their duties or responsibilities in a completely objective manner. The Deputy Minister or his or her delegate may require that the outside activities be modified or terminated if it is determined that a real, apparent or potential conflict of interest exists.

Public servants who receive a benefit or income either directly or indirectly from a contract with the Government of Canada are required to report to the Deputy Minister, via the office responsible for values and ethics, on such contractual or other arrangements. The Deputy Minister or his or her delegate will determine whether the arrangement presents a real, apparent or potential conflict of interest, and may require that the contract be modified or terminated.

Political Activities

Any public servant considering involvement in a political activity should seek the advice of their manager, the designated departmental official within the Department, the Public Service Commission (PSC) or a human resources advisor before acting.

Public servants are required to seek and obtain permission from the PSC to seek nomination for or be a candidate in a federal, provincial, territorial, or municipal election, in accordance with Part 7 of the Public Service Employment Act (PSEA). The public servant must contact the designated official in the Department, who will seek the input of the Deputy Minister and work closely with the person making the request and the PSC to process the request.

“Political activities” are defined in Part 7 of the PSEA as “any activity in support of, within or in opposition to a political party; carrying on any activity in support of or in opposition to a candidate before or during an election period; or, seeking nomination as or being a candidate in an election before or during the election period.”

Any public servant who wishes to engage in a political activity not covered by Part 7 of the PSEA that could constitute a conflict of interest is required to report the proposed activity to the Deputy Minister via the office responsible for values and ethics.

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Similarly, any public servant who is subject to the Treasury Board's *Policy on Conflict of Interest and Post-Employment* but who is not subject to Part 7 of the PSEA, including casual and part-time workers, who wishes to engage in any political activity that could constitute a conflict of interest, is to report the proposed activity to the Deputy Minister via the office responsible for values and ethics.

2.3 Gifts, hospitality and other benefits

Public servants are expected to use their best judgment to avoid situations of real, apparent or potential conflict of interest by considering the following criteria on gifts, hospitality and other benefits and in keeping with the *Values and Ethics Code for the Public Sector* and the *Policy on Conflict of Interest and Post-Employment*, which are reflected in this Code.

Public servants are not to accept any gifts, hospitality or other benefits that may have a real, apparent or potential influence on their objectivity in carrying out their official duties and responsibilities or that may place them under obligation to the donor. This includes activities such as free or discounted admission to sporting and cultural events, travel or conferences.

The acceptance of gifts, hospitality and other benefits is permissible if they are infrequent and of minimal value, within the normal standards of courtesy or protocol, arise out of activities or events related to the official duties of the public servant concerned, and do not compromise or appear to compromise the integrity of the public servant concerned or that of the Department.

Public servants are to seek written direction from the Deputy Minister, via the office responsible for values and ethics, where it is impossible to decline gifts, hospitality or other benefits that do not meet the principles set out above, or where it is believed that there is sufficient benefit to the Department to warrant acceptance of certain types of hospitality.

2.4 Solicitation

With the exception of fundraising for such officially supported activities as the Government of Canada Workplace Charitable Campaign (GCWCC), public servants may not solicit gifts, hospitality, other benefits or transfers of economic value from a person, group or organization in the private sector who has dealings with the government. When fundraising for such official activities, public servants should ensure that they have prior written authorization from the Deputy Minister in order to solicit donations, prizes or contributions in kind from external organizations or individuals.

The Deputy Minister or his or her delegate may require that the activities be modified or terminated where it is determined that there is a real, potential or apparent conflict of interest or an obligation to the donor.

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2.5 Avoidance of preferential treatment

Public servants are responsible for demonstrating objectivity and impartiality in the exercise of their duties and in their decision-making, whether related to staffing, financial awards or penalties to external parties, transfer payments, program operations or any other exercise of responsibility.

This means that they are prohibited from granting preferential treatment or advantages to family, friends or any other person or entity. They are not to offer extraordinary assistance to any entity or person already dealing with the government without the knowledge and support of their supervisor. They also are not to disadvantage any entity or person dealing with the government because of personal antagonism or bias.

Providing information that is publicly accessible is not considered preferential treatment.

3. REQUIREMENTS FOR PREVENTING POST-EMPLOYMENT CONFLICT OF INTEREST SITUATIONS BEFORE AND AFTER LEAVING OFFICE

All public servants have a responsibility to minimize the possibility of a real, apparent or potential conflict of interest between their most recent responsibilities within the federal public service and their subsequent employment outside the public service.

3.1 Before leaving employment

Before leaving their employment with the public service, all public servants are to disclose their intentions regarding any future outside employment or activities that may pose a risk of a real, apparent or potential conflict of interest with their current responsibilities and discuss potential conflicts with their manager, or the Deputy Minister or his or her delegate.

3.2 Post-employment limitation period for public servants in designated positions

The Deputy Minister is responsible for designating positions of risk for post-employment conflict of interest situations in accordance with the Policy on Conflict of Interest and Post-Employment.

The positions that have been designated as positions of risk in the Department of Justice are: EX, LC, LA-3A and LA-3B positions.

Public servants in these designated positions are subject to a one-year limitation period after leaving office. Before leaving office and during this one-year limitation period, these public servants are to report to the Deputy Minister in writing, via the office responsible for values and ethics, all firm offers of employment or proposed activity outside the public service that could place them in a real, apparent or potential conflict of interest with their public service employment. They are also to disclose immediately the acceptance of any such offer. In addition, these public servants may not, during this one-year period, without the authorization of the Deputy Minister:

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- a) Accept appointment to a board of directors of, or employment with, private entities with which they had significant official dealings during the period of one year immediately prior to the termination of their service. The official dealings in question may either be directly on the part of the public servant or through their subordinates;
- b) Make representations to any government organization on behalf of persons or entities outside of the public service with which they had significant official dealings, during the period of one year immediately prior to the termination of their service⁵. The official dealings in question may either be directly on the part of the public servant or through their subordinates; or
- c) Give advice to their clients or employer using information that is not publicly available concerning the programs or policies of the Department or organizations with which they had a direct and substantial relationship.

3.3 Waiver or reduction of limitation period

A public servant or former public servant may apply to the Deputy Minister, via the office responsible for values and ethics, for a written waiver or reduction of the limitation period. The public servant is to provide sufficient information to assist the Deputy Minister or his or her delegate in making a determination as to whether to grant the waiver taking into consideration the following criteria:

- a) the circumstances under which the termination of their service occurred;
- b) the general employment prospects of the public servant or former public servant;
- c) the significance to the government of information possessed by the public servant or former public servant by virtue of that individual's position in the public service;
- d) the desirability of a rapid transfer of the public servant's or former public servant's knowledge and skills from the government to private, other governmental or non-governmental sectors;
- e) the degree to which the new employer might gain unfair commercial or private advantage by hiring the public servant or former public servant;
- f) the authority and influence possessed by that individual while in the public service; and/or
- g) any other consideration at the discretion of the Deputy Minister.

⁵ Assistant deputy ministers and their equivalents are subject to the Lobbying Act. In the case of any conflict between this Policy and the Act, the Act takes precedence.

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4. RESOLUTION

With respect to the arrangements necessary to prevent a real, apparent or potential conflict of interest, or to comply with the requirements set out above, it is expected that situations will be resolved through discussion and agreement between the public servant and the Deputy Minister or his or her delegate. When a public servant and the Deputy Minister or delegate, disagree on the appropriate arrangements to resolve a real, apparent or potential conflict of interest, the disagreement will be resolved through the grievance procedures established by the Department.

5. CONSEQUENCES

The Department fully trusts public servants in the exercise of their professional duties and expects that each public servant will comply with the Code and the related policies and guidelines.

A public servant who does not comply with the requirements set out in this Code may be subject to disciplinary measures, up to and including termination of employment. Any disciplinary measures will be based on the seriousness of the breach.

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ANNEX A

DUTIES AND OBLIGATIONS

Public Servants

Public servants are expected to abide by this Code and demonstrate the values of the Department in their actions and behaviour. If a public servant does not abide by these values and expectations, he or she may be subject to administrative or disciplinary measures up to and including termination of employment.

As provided by sections 12 and 13 of the *Public Servants Disclosure Protection Act* (PSDPA), if public servants have information that could indicate a serious breach of this Code, they can bring this matter, in confidence and without fear of reprisal, to the attention of their immediate supervisor, the senior officer for disclosure or the Public Sector Integrity Commissioner.

It is the responsibility of every public servant to review the Code regularly – at least once a year and more often if there is a change in their circumstances (e.g. when changing positions or undertaking a new activity) – and to be familiar with their duties and obligations.

Managers

Public servants who are also managers are in a position of influence and authority that gives them a particular responsibility to exemplify the values of the public sector and the Department. Managers are expected to:

- promote a culture based on the values of the public sector and of the Department, and encourage dialogue on related issues;
- provide advice and guidance as needed to public servants under their supervision on issues related to values and ethics, including occasions where public servants find themselves faced with a situation that could give rise to a conflict of interest;
- review submissions from public servants and provide input as requested by the office responsible for values and ethics for the purpose of making a decision relating to conflict of interest and post-employment;
- monitor public servants' compliance with decisions or other measures established to prevent or minimize risks related to conflict of interest;
- notify the office responsible for values and ethics of breaches under this Code and non-compliance with established measures to prevent conflict of interest; and,
- advise employees departing from the public service of their post-employment obligations. Discuss their intentions for future outside employment or activities that may give rise to a real, apparent or potential conflict of interest situation.

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Deputy Minister

The Deputy Minister has specific responsibilities under the PSDPA, including establishing a code of conduct for the Department and an overall responsibility for fostering a positive culture of values and ethics. The Deputy Minister ensures that employees are aware of their obligations under this Code. The Deputy Minister also ensures that employees can obtain appropriate advice within the Department on ethical issues, including possible conflicts of interest.

The Deputy Minister ensures that this Code and the internal disclosure procedures are implemented effectively within the Department, and that they are regularly monitored and evaluated.

The Deputy Minister is responsible for ensuring the non-partisan provision of programs and services by the Department.

The Deputy Minister is subject to the *Values and Ethics Code for the Public Sector* and to the *Conflict of Interest Act*.

Assistant Deputy Minister, Management Sector

The Deputy Minister has delegated responsibility for overseeing activities relating to values and ethics at the Department to the Assistant Deputy Minister of the Management Sector, who in turn supports the Deputy Minister as part of his or her functions by playing a central role in leading the Department in matters of values and ethics.

In particular, the Assistant Deputy Minister of the Management Sector is responsible for managing the office responsible for values and ethics and, in accordance with the authority delegated to him or her, for reviewing and dealing with requests for advice and submissions related to conflict of interest and post-employment on behalf of the Deputy Minister.

Centre for Ethics, Conflict Management and Wellness

The Centre for Ethics, Conflict Management and Wellness is responsible for values and ethics and supports the Deputy Minister, the Assistant Deputy Minister of the Management Sector, managers and all public servants in the Department. It is responsible for:

- providing advice to public servants and managers on issues related to this Code and values and ethics in general;
- processing and providing recommendations on submissions under this Code related to conflict of interest, post-employment and political activities;
- providing information, tools and training to ensure that public servants understand their duties and obligations; and

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- working in partnership with key stakeholders and partners on issues related to values and ethics.

Senior Officer for Disclosure

The senior officer for disclosure helps promote a positive environment for disclosing wrongdoing and deals with disclosures of wrongdoing made by public servants in the Department. He or she is responsible for supporting the Deputy Minister in meeting the requirements of the *Public Servants Disclosure Protection Act* (PSDPA).

The senior officer's duties and powers also include the following, in accordance with the internal disclosure procedures established under the PSDPA:

1. Provide information, advice and guidance to public servants regarding the Department's internal disclosure procedures, including the making of disclosures, the conduct of investigations into disclosures, and the handling of disclosures made to supervisors.
2. Receive and record disclosures and review them to establish whether there are sufficient grounds for further action under the PSDPA.
3. Manage investigations into disclosures, including determining whether to deal with a disclosure under the PSDPA, initiate an investigation or cease an investigation.
4. Coordinate handling of a disclosure with the senior officer of another federal public sector organization, if a disclosure or an investigation into a disclosure involves that other organization.
5. Notify the person(s) who made a disclosure in writing of the outcome of any review and/or investigation into the disclosure and on the status of actions taken on the disclosure, as appropriate.
6. Report the findings of investigations, as well as any systemic problems that may give rise to wrongdoing, directly to the Deputy Minister, with recommendations for corrective action, if any.

Treasury Board of Canada Secretariat – Office of the Chief Human Resources Officer

In support of the Treasury Board President's responsibilities under section 4 of the PSDPA, the Office of the Chief Human Resources Officer (OCHRO) is responsible for promoting ethical practices in the public sector⁶. The OCHRO will work with all relevant partner organizations to implement and promote the *Values and Ethics Code for the Public Sector* (VECPS), and will

⁶ Section 4 of the PSDPA assigns this responsibility to the Minister responsible for the Public Service Human Resources Management Agency of Canada (subsequently the Canada Public Service Agency (CPSA)). With the creation of the Office of the Chief Human Resources Officer within Treasury Board of Canada Secretariat on February 6, 2009, the functions of the CPSA were transferred to the OCHRO.

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provide advice to Deputy Ministers and designated departmental officials with respect to its interpretation.

The Chief Human Resources Officer may issue directives, standards and guidelines related to the VECPS.

The OCHRO will monitor the implementation of the VECPS in organizations with a view to assessing whether the stated objectives have been achieved.

Public Service Commission

The Public Service Commission is responsible for conducting staffing investigations and audits to safeguard the integrity of the public service staffing system and administering certain provisions related to political activities to maintain the non-partisanship of the public service in accordance with the Public Service Employment Act.

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ANNEX B

ASSETS, LIABILITIES AND TRUSTS

Reportable Assets and Liabilities

Public servants must carefully evaluate on a regular basis whether their assets and liabilities need to be reported. In doing so, they must take into consideration the nature of their official duties and the characteristics of their assets and liabilities. If there is any real, apparent or potential conflict between the carrying out of their official duties and their assets and liabilities, a submission to the office responsible for values and ethics must be made. If there is no relationship, no report is required.

Any assets and or direct and contingent liabilities that might give rise to a conflict of interest must be reported within 60 days of the public servants first appointment or any subsequent appointment, transfer or deployment. Any measures required to manage or resolve a conflict of interest will normally be completed or in place within 120 calendar days, or such other appropriate time period as determined by the Department after a determination that a real, apparent or potential conflict of interest exists.

The following is a list of examples of assets and liabilities that must be reported if they do, or could, constitute a conflict of interest. **This list is not exhaustive.**

- a. publicly traded securities of corporations and foreign governments, and self-administered Registered Retirement Savings Plans (RRSPs), self-administered Registered Education Savings Plans (RESPs), tax free savings accounts, and Registered Disability Savings Plans (RDSPs), or similar tax-related saving vehicles, that are composed of these securities, where these securities are held directly and not through units in mutual funds;
- b. interests in partnerships, proprietorships, joint ventures, private companies and family businesses, in particular those that own or control shares of public companies or that do business with the government;
- c. interests in labour-sponsored venture capital corporations or similar entities;
- d. commercially operated farm businesses;
- e. real property that is not for the private use of public servants or their family members;
- f. commodities, futures and foreign currencies held or traded for speculative purposes;
- g. assets placed in trust or resulting from an estate of which the public servant is a beneficiary;
- h. secured or unsecured loans granted to persons other than to members of the public servant's immediate family;
- i. any other assets or liabilities that could give rise to a real, apparent or potential conflict of interest due to the particular nature of the public servant's official duties or the non-public information to which he or she has access; and
- j. direct and contingent liabilities in respect of any of the assets described in this section.

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Non-reportable Assets

Assets and interests for the private use of public servants and of their family members, as well as non-commercial assets, are **not** subject to the compliance measures.

For example, such assets include the following:

- a. residences, recreational properties and farms used or intended for use by public servants or their families;
- b. household goods and personal effects;
- c. works of art, antiques and collectibles;
- d. automobiles and other personal means of transportation;
- e. cash and deposits;
- f. Canada Saving Bonds and other similar investments in securities of fixed value issued or guaranteed by any level of government in Canada or agencies of those governments;
- g. Registered Retirement Savings Plans and Registered Education Saving Plans that are not self-administered;
- h. investments in open-ended mutual funds;
- i. guaranteed investment certificates and similar financial instruments;
- j. annuities and life insurance policies;
- k. pension rights;
- l. money owed by a previous employer, client or partnership;
- m. personal loans receivable from members of public servants' immediate families and small personal loans receivable from other persons where public servants have loaned the moneys receivable; and
- n. any liability, such as a car loan, home renovation loan or credit card account, from a financial institution or business entity granted on terms available to the general public.

Workplace Branch

FACT SHEET – VOLUNTEERING



Values and Ethics Code of the Department of Justice

Chapter 2 of the Code provides specific guidance related to outside employment or activities. Employees may engage in outside activities unless the activities are likely to give rise to a real, apparent or potential conflict of interest or would undermine the impartiality of the public service or the objectivity of the employee.

When volunteering, employees must keep in mind the appropriate balance between public duty and private interests. While they may express views and opinions as private citizens, this must be balanced with their duties and responsibilities as employees of the federal public service. Employees are always public servants and should consider their obligations under the Code even in their personal activities.



Questions to consider

Nature of the activity

- Is the activity being undertaken in a personal or official capacity?
 - Approval from management is required in order for it to be considered part of official duties
 - Conflict of duties is still possible even if the activity is being done in an official capacity

Nature of the organization

- What organization will you be volunteering with?
 - What is the mandate of the organization? (Information, advocacy, profit, not for profit, etc.)
 - What kind of work is the organization involved in?
 - Does the organization have any files with Justice? (i.e. litigation, claims, etc.)
 - Does the organization have any business dealings, including funding requests, with the Department of Justice or the Government of Canada?

Type of responsibilities with the outside organization

- What are your responsibilities with the organization?
 - Will you have decision-making power?
 - What is the nature of your work with the organization?
 - Will you be on the board of directors or any committees?
 - Will you be involved in solicitation and/or fundraising for the organization?
 - Will you be visible within the organization? (i.e. spokesperson, other contact with the public, etc.)
 - Will you be involved with making funding requests for the organization?
 - Will you advocate on behalf of the organization?
 - Will you provide legal services for the organization?
 - When will you undertake this work and related tasks? (i.e. outside of working time, while on leave, etc.)
 - How will you be identified within the organization?

Nature of your functions with the Department of Justice

- What are your responsibilities with the Department of Justice?
 - What is your group and level?
 - What are your specific responsibilities?
 - What type of files do you work on?
 - Are there any links between your official responsibilities and your responsibilities with the external organization?



Practical Tips

- Employees must refrain from the direct or indirect use of, or allowing the direct or indirect use of government property of any kind, including property leased to the government, for anything other than officially approved activities.
- When a public servant is asked to volunteer, they must make sure that they understand what their role will be in the organization and discuss any conflict of interest issues with their manager and/or the Workplace Branch at the beginning, before accepting to undertake an activity.
- Lawyers of the Department of Justice must make sure the organization understands that they cannot act as a legal advisor or provide legal opinions or services.
- In some cases, if a conflict of interest arises during a discussion, public servants can usually avoid a problem by leaving the room while a particular item is discussed. It is not necessary in most cases to leave the organization completely.



How do I get a decision related to conflict of interest?

You should complete a [submission form](#) and send it to the Workplace Branch. They will follow-up with additional questions, if necessary. They then prepare a recommendation for review by the delegated authority. Once a decision has been made, a letter will be sent to you with a copy to your manager. Measures may be established in certain situations to prevent any real, apparent or potential conflict of interest from arising. This type of submission requires 30 days to be processed. However, more complex situations may require more time.



Where do I send my form?

- v&e@justice.gc.ca
- Facsimile: 613-952-3932
- Values and Ethics Team
350 Albert Street, Suite 350
Ottawa, Ontario K1A 0H8



FAQ – The Values and Ethics Code of the Department of Justice

General Information on the Code

1. Why do we have a Code?

The Code provides guidance for common situations involving our work at the Department. In all circumstances, each employee is expected to adhere to the highest ethical standards that are to be expected from a public servant.

The *Public Servants Disclosure Protection Act* (PSDPA) requires that organizations subject to the Act establish their own code of conduct.

2. Does the Code apply to me?

The Code applies to all public servants at the Department of Justice, regardless of their classification and level.

For more information on the application of the Code, please consult Chapter 1 of the Code.

3. Why must I comply with the Code?

Compliance with the Code is a condition of employment for all public servants at the Department.

4. What consequences will I face if I do not comply with the Code?

If a public servant does not comply with the requirements set out in the Code, he or she may be subject to disciplinary measures up to and including termination of employment. Any disciplinary measures will be based on the seriousness of the breach.

5. Do I have to comply with the *Values and Ethics Code of the Department of Justice*, the *Values and Ethics Code for the Public Sector* and the *Policy on Conflict of Interest and Post-Employment*?

The *Values and Ethics Code of the Department of Justice* is inspired by the *Values and Ethics Code for the Public Sector* and the *Policy on Conflict of Interest and Post-Employment*. By respecting the Code, employees will be respecting the two public sector documents that it was based upon.

Roles, Duties and Obligations under the Code

6. As a manager, do I have duties under the Code?

Yes, you have an important role which includes promoting a culture based on the values of the public sector and of the Department, and encouraging dialogue on related issues.

For more information on the scope of these duties, please consult Annex A of the Code.

7. As an employee, do I have duties under the Code?

Yes, public servants are expected to abide by the Code at all times and apply the values of the public sector in their actions and behaviour.

For more information on the scope of these duties, please consult Annex A of the Code.

8. What is “duty of loyalty”?

The duty of loyalty owed by public servants to their employer, the Government of Canada, encompasses a duty to refrain from public criticism of the Government of Canada.

However, the duty of loyalty is not absolute. In determining whether any particular criticism is justified, and therefore not subject to disciplinary action, the duty of loyalty must be balanced with other interests such as the public servant's freedom of expression and the legitimate interest of the Government to maintain a public service characterized by professionalism and impartiality. See *Fraser v. P.S.S.R.B.*, [1985] 2 S.C.R. 455.

9. Which office is responsible for values and ethics within the Department and what is its role?

The Workplace Branch is the office responsible for values and ethics. Its role includes, but is not limited to, providing information, advice, assistance and training, particularly on:

- conflict of interest;
- post employment;
- political activities; and
- disclosure of wrongdoing

For more information on the scope of these duties, please consult Annex A of the Code.

10. Who is the senior officer for disclosure of wrongdoing within the Department and what is their role?

The Director General of the Workplace Branch is the senior officer designated for the Department of Justice. They help promote a positive environment for disclosing

wrongdoing, and deal with disclosures of wrongdoing made by public servants at the Department. They are responsible for supporting the Deputy Minister or his or her delegate in meeting the requirements of the *Public Servants Disclosure Protection Act* (PSDPA).

For more information on the scope of these duties, please consult the Department's Intranet Site.

11. Who can I contact to obtain more information on the Code?

You can contact your manager or the Workplace Branch.

Conflict of Interest

12. What is a conflict of interest under the Code?

A conflict of interest is a situation in which the public servant has private interests that could improperly influence the performance of his or her official duties and responsibilities or in which the public servant uses his or her office for personal gain. A real conflict of interest exists at the present time, an apparent conflict of interest could be perceived by a reasonable observer to exist, whether or not it is the case, and a potential conflict of interest could reasonably be foreseen to exist in the future.

13. What is a “conflict of duties” under the Code?

It is a conflict that arises, not because of a public servant’s private interests, but as a result of one or more concurrent or competing official responsibilities. For example, these roles could include his or her primary public service employment and his or her responsibilities in an outside role that forms part of his or her official duties, such as an appointment to a board of directors, or other outside function.

14. As an employee, do I have responsibilities as they relate to conflict of interest?

Yes, they include taking all possible steps to recognize, prevent, report, and resolve any real, apparent or potential conflicts of interest between your official responsibilities and any of your private affairs.

For more information on the scope of these responsibilities, please consult Chapter 2 of the Code.

15. Who can I contact if I have questions or concerns regarding conflict of interest?

You may seek advice from your manager and, if necessary, from another senior manager in your reporting structure. If after this step there is still doubt as to whether the activity or situation raises a conflict of interest, you must consult the Workplace Branch.

16. Do I have to disclose all my outside activities and interests?

Outside activities and interests that raise a real, apparent or potential conflict of interest must be disclosed. You must also disclose activities wherein you will be remunerated or receive other benefits from an organization that has dealings with the Government of Canada.

17. Are there any tools available to assist me with issues involving conflict of interest?

Yes, various tools are available on the Values & Ethics Forms and Resources Page.

18. Can I take part in outside activities in my areas of personal interest?

Yes, the Department encourages employees to participate in outreach activities and personal and professional development promoted by their respective professional associations or relevant to their areas of private interest. However, public servants must take all possible steps to identify, report, and resolve any real, apparent or potential conflicts of interest between their official responsibilities and any of their private affairs.

19. What should I do if I am offered gifts, hospitality or other benefits?

You should consult the Workplace Branch as you may be required to complete a form to obtain written permission from the Assistant Deputy Minister, Management Sector, to accept any gift, hospitality or benefit.

For more information on the acceptance of gifts, hospitality and other benefits, please consult Chapter 2 of the Code.

20. Can I engage in solicitation for fundraising purposes in the workplace?

This type of solicitation is permitted, but only with **prior** written authorization. You must complete a form to obtain said permission.

For more information, please consult the Fact Sheet on Solicitation.

21. Can I use government property (e.g. work equipment) for personal use?

No, as a public servant, you must refrain from the direct or indirect use of, or allowing the direct or indirect use of government property of any kind, including property leased to the government, for anything other than officially approved activities.

22. Can I use electronic network facilities for personal use?

Use of electronic network facilities, including the internet, for personal use on personal time for such purposes as online banking and shopping, sending personal electronic mail using the departmental email system and exploring the Internet for useful resources is permissible. Personal use does not include usage of electronic network facilities for outside interests or activities.

23. Can my personal assets place me in a situation of conflict of interest?

Yes, if there is any real, apparent or potential conflict of interest between the carrying out of your official duties and your assets, you are to report this matter to the Assistant Deputy Minister, Management Sector, in a timely manner, using the appropriate form.

Please consult Annex B for a list of reportable assets and liabilities.

24. Can I volunteer outside the Public Service?

Public servants may take part in outside volunteer activities unless the activities are likely to give rise to a real, apparent or potential conflict of interest or would undermine the impartiality of the public service or the objectivity of the public servant.

For more information, please consult the Fact Sheet on Volunteering.

25. Can I practice law outside the Public Service while working as a lawyer or notary at the Department?

No. Departmental lawyers and notaries are expected to practice law exclusively for the Crown while they are working for the Department. Also see question 27.

26. Can I take leave without pay to practice law outside the Public Service?

Yes, if no real, apparent or potential conflict of interest exists and if the duration of leave is long enough to ensure a clear break from your duties with the Department. You must obtain a conflict of interest determination prior to accepting any employment related to the practice of law. Once a determination has been made, your manager will then consider your leave request. A conflict of interest determination can be sought by completing the appropriate form.

27. Can I provide *Pro Bono* legal services outside the Public Service?

Yes, but only in the context of the approved clinics identified in the *Policy for Pro Bono Legal Services for Department of Justice Lawyers* (the Policy).

For more information, please consult the Policy.

28. Do I have responsibilities when using social media?

Yes, you must exercise caution when using social media or other collaborative tools facilitated by information technology so that your professionalism and your ability to perform your duties in an impartial, objective and non-partisan way are not called into question.

For more information, please consult Chapter 1, Section 3.7, of the Code.

29. What can I do if I disagree with the measures established to prevent a real, apparent or potential conflict of interest in my situation?

A discussion can be requested with the decision maker, through the Workplace Branch. If after such a discussion, there continues to be disagreement on the measures established to prevent a real, apparent or potential conflict of interest, the disagreement will be resolved through the grievance procedures established by the Department.

Post Employment

30. Do I have responsibilities before leaving the Public Service?

Yes, before leaving your employment with the public service, you are to disclose your intentions regarding any future outside employment or activities that may pose a risk of a real, apparent or potential conflict of interest with your current responsibilities and discuss potential conflicts with your manager, or the Workplace Branch.

To disclose your intentions regarding any future outside employment or activities, please complete the following form.

31. What are the designated positions of risk for post-employment conflict of interest situations within the Department in which public servants are subject to a one-year post-employment limitation period?

The positions that have been designated as positions of risk in the Department of Justice are: EX, LC, LP-04 and LP-05 positions.

32. What are the restrictions and limitations for public servants in a designated position?

Public servants in designated positions are subject to a one-year limitation period after leaving office. These public servants may not, during this one-year period, without the authorization of the Deputy Minister:

- a) Accept appointment to a board of directors of, or employment with, private entities with which they had significant official dealings during the period of one year immediately prior to the termination of their service. The official dealings in question may either be directly on the part of the public servant or through their subordinates;

- b) Make representations to any government organization on behalf of persons or entities outside of the public service with which they had significant official dealings, during the period of one year immediately prior to the termination of their service¹. The official dealings in question may either be directly on the part of the public servant or through their subordinates; or
 - c) Give advice to their clients or employer using information that is not publicly available concerning the programs or policies of the Department or organizations with which they had a direct and substantial relationship.
33. Can I apply for a waiver or reduction of the limitation period that applies to public servants in a designated position?

Yes, you may apply to the Assistant Deputy Minister, Management Sector, for a written waiver or reduction of the limitation period by contacting the Workplace Branch.

Political Activities

34. What is a “political activity”?

“Political activities” are defined in Part 7 of the *Public Service Employment Act* (PSEA) as “any activity in support of, within or in opposition to a political party; carrying on any activity in support of or in opposition to a candidate before or during an election period; or, seeking nomination as or being a candidate in an election before or during the election period.”

35. Can I take part in a political activity?

Yes, Part 7 of the *Public Service Employment Act* (PSEA) recognizes the right of employees to engage in political activities. However, these activities must not impair, or be perceived as impairing, an employee’s ability to perform his or her duties in a politically impartial manner.

36. Can I seek nomination as, or be, a candidate in a municipal, provincial, territorial or federal election?

Yes, so long as your ability to perform your duties in a politically impartial manner will not be impaired, or be perceived as being impaired. You must first receive permission from the Public Service Commission, in addition to input from the Deputy Minister, prior to making public your intention to be a candidate and undertaking candidacy related activities.

37. How can I assess whether or not a political activity is problematic?

¹ Assistant deputy ministers and their equivalents are subject to the *Lobbying Act*. In the case of any conflict between this Policy and the Act, the Act takes precedence.

A self-assessment tool is made available to you by the Public Service Commission of Canada to help you make informed decisions related to your participation in a political activity. This tool can help you to assess to what extent a given activity impairs, or is perceived as impairing, your ability to perform your duties in a politically impartial manner.

For guidance or discussion, please contact the Workplace Branch.

38. Who is the Designated Political Activities Representative (DPAR) in the Department?

At the Department of Justice, the DPAR is the Senior Advisor, Values & Ethics.

Procedures

39. When do I make a submission for determination related to conflict of interest?

Within 60 days of your initial appointment or any subsequent appointment, transfer or deployment or any change in your personal affairs or official duties. You must complete a written report to the Workplace Branch, on all outside activities, assets and interests that might give rise to a real, apparent or potential conflict of interest in relation to your official duties. If there is nothing to disclose, no report is required.

40. How do I make a submission related to conflict of interest and post-employment?

You can make a submission by completing the appropriate submission form which you can find on the Department's intranet site and sending it to v&e@justice.gc.ca. You can also send an e-mail to this address to obtain advice.

41. What is the process associated with producing a determination related to conflict of interest or post-employment?

Once a submission form is received, the Workplace Branch will follow-up with additional questions if necessary. Consultations may take place with third parties on a need to know basis. The Workplace Branch then prepares a recommendation for review by the delegated authority. Once the delegated authority has made a decision, a letter will be sent to you with a copy to your manager.

42. Who could be consulted about my submission?

Consultations may take place with third parties on a need to know basis. This includes, but is not limited to: Corporate Counsel, Human Resources, Management, Treasury Board of Canada Secretariat and client Departments and Agencies.